

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of July 18, 2013

Members Present

Greg Sirb
David Dowling
Sara Jane Cate
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Dianne Moran

Docket 1341

Applicant: Susquehanna Ale House
(Collinswood Pub, LLC)

Owner: Drew Wood

Address: 4920 Jonestown Road
Harrisburg, PA 17109

Property: 4920 Jonestown Road
Harrisburg, PA 17109

Interpretation: Article 6: Off Street Parking – 601.A. Overall Requirements.

1. Number of Spaces. Each use that is newly enlarged shall provide and maintain off-street parking spaces in accordance with Table 6.1 and the regulations of this Article.

<u>Commercial Use</u>	<u>Number of Off-Street Parking Spaces Required</u>
17. Restaurant	1 per 2 seats

Plus 1 Off-Street Parking Spaces for:
1.1 Employee

The applicant has added approximately one hundred outdoor seats for customers, but has added no additional parking on the lot. The existing parking serves the inside seating of the restaurant/bar.

Grounds: Article 6

Fees Paid: June 24, 2013

Property Posted: July 9, 2013

Advertisement: Appeared in The Paxton Herald on July 3, 2013 and July 9, 2013.

The hearing began at 7:18 p.m.

Mr. Sirb swore in Andrew Wood, 4920 Jonestown Road, Harrisburg, PA. Mr. Wood explained that he is the owner of the Susquehanna Ale House.

Mr. Sirb questioned if the application was properly advertised. Ms. Dianne Moran advised that the appropriate fees were paid on June 24, 2013. The proper advertisements appeared in The Paxton Herald on July 3, 2013 and July 10, 2013. The hearing notices were posted on July 9, 2013.

Mr. Sirb questioned what variance the Board is looking to discuss for Docket 1341. Ms. Moran answered Interpretation: Article 6 for Off Street Parking: 601 A, overall requirements for the number of spaces for each use that is newly enlarged, shall provide and maintain all street parking spaces in accordance with Table 6.1 and the regulations for this article. She noted that a commercial use for a restaurant requires the number of off-street parking spaces, one for every two seats, plus one for each employee. She noted that the applicant has added approximately 100 outdoor seats for customers with no additional parking on the lot. The existing parking serves the inside seating of the restaurant/bar.

Mr. Sirb noted that he has eaten at that restaurant after the owner opened the seats on the outside and he questioned if that required more parking. Ms. Moran answered yes. Mr. Sirb questioned if Mr. Wood has satisfied his inside requirements. Ms. Moran answered yes; there has always been a restaurant use and the seating inside has the proper ratio for parking.

Mr. Dowling questioned if Mr. Wood needed a building permit for the outside seating. Ms. Moran answered that he will. She questioned if he did get a building permit. Mr. Wood answered that he did not. Ms. Moran suggested that there will be an issue with the egress for patrons to exit the deck area without going back inside the restaurant. She noted that will be taken care of as part of the building permit application process.

Mr. Drew Wood explained that he added six picnic tables and six plastic tables and chairs that seat approximately 100 people. He noted that he has always had a good relationship with M&T Bank and the Tire Mart, both of which are adjacent to his restaurant, who allow customer parking on their locations since his hours are complementary to each other. He noted that the bank is closed when his restaurant is open. He explained that Tire Mart uses his parking lot during the day and he uses their lot at night.

He noted with the three lots there are 50 plus parking spaces behind him that he shares with M&T Bank and he would be able to utilize those parking spaces to account for the additional outdoor seating.

Mr. Sirb noted with the M&T Bank, if that is true, he questioned if Mr. Wood had anything in writing. Mr. Wood answered that he had a copy of a letter from the branch manager of M&T Bank as well the owner of Tire Mart in the board packet. Mr. Sirb questioned if this

would satisfy the requirements, noting that the Board had this type of issue come before it before, noting if there was an agreement for parking then the Board could provide the leniency. Ms. Moran answered that there is a very large parking lot behind the restaurant that everyone in that area shares. She noted that it seems to be a peaceful arrangement but she did not know if the letters were needed. Mr. Sirb questioned, if the Board takes the letters at full face, would they satisfy the parking, the number of the parking spaces combined in the Tire Mart and M&T Bank. Ms. Moran answered as long as their uses do not change and the bank and Tire Mart do not operate in the evening at the time that Mr. Wood needs the parking spaces.

Ms. Moran questioned Mr. Wood if he was open during the day. Mr. Wood answered no, explaining that he opens daily at 4 p.m.

Mr. Sirb noted that it would be outdoor usage only weather permitting. Mr. Wood noted that it is a seasonal use up to mid October, noting that it is a temporary set up and he could remove the two split rails very quickly explaining that he built the entire deck in four hours. He suggested that he could remove it in the same amount of time.

Ms. Cate questioned Mr. Wood if he owned the Susquehanna Ale House. Mr. Wood answered yes. He explained that he purchased the liquor license and assumed the lease from Chen last year and he received his LCB approval in November, closed the old facility and reopened on December 21, 2012.

Ms. Moran questioned if Mr. Wood received approval from the LCB for the outside service. Mr. Wood answered that the LCB inspected and approved the outside use. He noted that it coincided with his renewal for the State Health and Food license as well.

Ms. Moran questioned if it is the understanding that the outside deck area would be rolled up and put away in October. Mr. Wood answered that would be the plan. He noted that there would be no reason for him to have that facility in the winter time as it would provide more wear and tear on the tables and chairs.

Ms. Cate questioned Mr. Wood where he would store the equipment. Mr. Wood answered that he has a property in Harrisburg, noting that he lives in downtown Harrisburg. Mr. Hansen questioned if would be considered permanent or temporary for the outside facilities. Ms. Moran answered that it is permanent temporary. She noted that it must meet certain codes noting that there are rules for accessibility.

Mr. Sirb questioned Mr. Turner about this situation. Mr. Turner noted that the answer would be to condition the variance that it only runs as long as the relationship with M&T Bank and Tire Mart exists and require, on an annual basis, that the applicant must provide verification from those two business establishments that the agreement is still in place. He noted that he would be required to bring that to the Township every year before he would set up the outside seating arrangement. Mr. Wood noted that it seems agreeable. He noted when he worked for the previous owner; he maintained a good relationship with M&T Bank and Tire Mart and never had any problems. Mr. Sirb noted that it seems that all three work well with each other. He noted he has been to Tire Mart and if they are busy he parks in the other lots.

Ms. Moran noted for liability reasons, there needs to be an opening in the perimeter fence. Mr. Wood agreed. Mr. Turner noted that the Board could add an additional condition that the applicant will comply with all applicable Township regulations. Mr. Wood noted since it was a temporary usage he was not thinking about access, but he will find a way to address that issue.

Mr. Sirb questioned if any board members had any additional questions.

Mr. Sirb noted that he would entertain a motion from the Board.

Ms. Cate made a motion to approve Docket No. 1341 with the two conditions: the applicant would provide an annual agreement that the parking arrangement does exist with M&T Bank and Tire Mart and that the applicant would comply with all other Township codes. Mr. Downing noted that the deck area must be removed at the end of the season in October. Mr. Sirb noted that there are three conditions to the motion. Mr. Hansen seconded the motion. Mr. Turner conducted a roll call vote: Mr. Fisher, aye; Mr. Hansen, aye; Mr. Dowling, aye; Ms. Cate, aye; and Mr. Sirb, aye.

The hearing ended at 7:30 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
: SUSQUEHANNA ALE HOUSE : DOCKET NO. 1341

DECISION GRANTING VARIANCE

The applicant seeks a variance from parking regulations in connection with the proposed creation of an outdoor dining area at an existing restaurant. A hearing on the application was held on July 18, 2013.

Facts

1. The applicant and lessee of the property in question is Collinswood Pub, LLC d/b/a Susquehanna Ale House of 4920 Jonestown Road, Harrisburg, Pennsylvania 17109. The property in question is owned by Chen Hsiao Sheng of 5001 E. Trindle Road, Mechanicsburg, Pennsylvania 17050.

2. The property in question is situate on the north side of Jonestown Road and is improved with a commercial building known as 4920 Jonestown Road. The building is used as a restaurant. The applicant's existing restaurant has 75 seats and parking is provided on site per the ordinance.

3. The applicant has created an area on the exterior of the restaurant to accommodate up to 100 persons. This area is only used seasonally. The applicant's hours of operation begin at 4:00 p.m.

4. The applicant has entered into an agreement with two neighboring businesses to allow cross parking on the three properties. The hours of the businesses are such that parking demand is staggered.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Section 601.A of the ordinance requires one parking space for every two seats plus one space per employee for restaurant uses. The proposed exterior dining spaces would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property in question is burdened by a hardship not created by the owner consisting of the limited lot area which precludes the development of additional parking spaces to comply with the ordinance.

4. Granting the variance will not alter the essential character of the neighborhood nor be contrary to the public welfare so long as the applicant and his adjainers continue to provide parking in a cooperative manner. This allows the full development of the parcels without encouraging on street parking. Such cooperation is essential, however, to the expansion. Otherwise, the off street impact could be detrimental to the neighborhood.

Decision

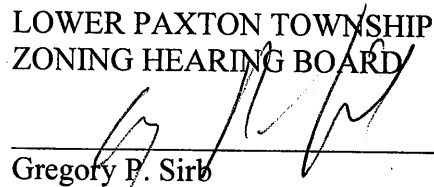
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the creation of an outdoor dining area on the following conditions:

- (a) the applicant annually shall provide the Township with written documentation from the adjoining property owners verifying that the cross parking agreements between the property owners remain in effect;
- (b) the applicant shall comply with all building permit requirements of the Township with regard to the outdoor dining area;
- (c) the deck area must be removed at the end of each outdoor dining season in October.


In all other respects operation of the outdoor dining area shall be in strict conformity with the plans and testimony submitted to the Board.

Date: 1/9/14

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

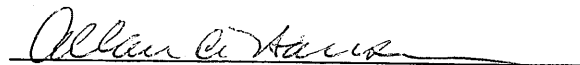


Gregory P. Sirb

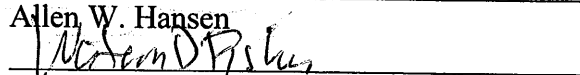


Sara Jane Cate

David B. Dowling



Allen W. Hansen



Watson Fisher